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**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE  
OFFICE OF THE MONTANA STATE AUDITOR**

In the Matter of the Proposed Agency  
Action Against NATHAN MAHLER

Case No. INS-2022-00061

**NOTICE OF PROPOSED AGENCY  
ACTION AND OPPORTUNITY FOR  
HEARING**

TO: Nathan Mahler  
14405 Marcure Lane  
Missoula, MT 59808

The Commissioner of Securities and Insurance, Office of the Montana State Auditor, (Commissioner) has cause to believe that Nathan Mahler (Respondent) has violated the Montana Insurance Code, §§ 33-1-101, *et seq.*, MCA. The Commissioner proposes a fine of \$1,000 for administrative insurance fraud. The Commissioner has the authority to take these actions under §§ 33-1-311, 33-1-317, 33-17-1001, 33-1-1202, 33-1-1211, 33-1-1302, 2-4-631, MCA, and as more fully described below. The following is a proposed agency action. Acceptance of CSI's proposed action will resolve this matter and it will be deemed a Final Agency Action based on the facts and law set out below. If Respondent chooses not to accept the proposed action, he may demand an administrative hearing, but that demand must be in writing and received by the Commissioner within 24 days of the date this Notice, as described in the Statement of Rights below.

### **FACTUAL ALLEGATIONS**

1. Respondent is a resident of Montana, residing at 14405 Marcure Lane in Missoula, Montana 59808. All of Respondent's actions below occurred in the state of Montana.
2. Respondent owned a 2001 Dodge 1500 pickup.
3. On February 27, 2021, Respondent was driving his Dodge pickup (with attached snowplow) on Russell Street in Missoula, Montana, when Respondent's vehicle rear-ended a Toyota Prius driven by N.K., resulting in significant damage to N.K.'s vehicle and causing N.K. to suffer headaches.
4. At the time of the collision, Respondent was traveling at a significant rate of speed and N.K.'s Prius had come to a stop at a railroad crossing.
5. The collision occurred at 9:59 a.m. or 10:00 a.m. on February 27, 2021.
6. Respondent's 2011 Dodge 1500 pickup was not insured at the time of the collision.
7. Respondent contacted Progressive Insurance Company (Progressive) *after* the collision in an attempt to obtain insurance coverage. Respondent initially contacted Progressive at 10:33 a.m. on February 27, 2021, obtaining confirmation of coverage a few minutes later at 10:43 a.m.
8. In a recorded telephone conversation Respondent falsely reported to a Progressive agent that the collision occurred between 10:30 a.m. and 11:00 a.m. on February 27, 2021, and that he had contacted Progressive to obtain insurance coverage *before* the collision. While the Progressive agent was asking Respondent questions, the call was abruptly disconnected.
9. When the phone connection was reestablished, Respondent continued to claim that he obtained or attempted to obtain insurance coverage an hour or so before the collision. However, a Progressive agent informed Respondent that dash-cam footage provided by N.K. showed that the collision occurred at 10 a.m. and Progressive's log-in data showed that Respondent first contacted Progressive to obtain insurance coverage at

10:33 a.m.—well after the collision. Confronted with this information, Respondent stated, in part, “Facts don’t lie.”

10. On March 24, 2021, Progressive notified Respondent that there was “no coverage” because the collision occurred before coverage was obtained.

11. On March 24, 2021, Progressive also notified N.K. that N.K.’s claim was denied based upon Progressive completed coverage investigation.

12. The damage to N.K.’s Prius was estimated at \$2,099.18.

### **ASSERTIONS OF LAW**

1. The Commissioner has jurisdiction over this matter pursuant to § 33-1-311, MCA.

2. The Commissioner takes this action under the authority granted to him by the Montana Insurance Code, §§ 33-1-101, MCA, *et seq.*, which authorizes the Commissioner to act in protection of insurance consumers, § 33-1-311(3), MCA, including enforcement of the Insurance Fraud Protection Act, §§ 33-1-1201, *et seq.*, MCA.

3. If, after conducting a hearing under § 33-1-701, MCA, the Commissioner determines that a person has committed administrative or civil insurance fraud, the Commissioner may impose a penalty. Section 33-1-317, MCA. That fine can be up to \$ 25,000. Section 33-1-317, MCA.

4. “A person commits administrative or civil insurance fraud when the person . . . for the purpose of obtaining any money or benefit, presents or causes to be presented to any insurer...any written or oral statement, including computer-generated documents, containing false, incomplete, or misleading information concerning any fact or thing material to, as part of, or in support of a claim for payment or other benefit pursuant to an insurance policy.” Section 33-1-1202, MCA.

5. Respondent committed administrative insurance fraud when, for the purpose of obtaining the benefit of insurance coverage for his accident, he falsely represented the time of the accident to Progressive.

### **PROPOSED AGENCY ACTION**

WHEREFORE, the Commissioner proposes to order the following:

A fine in the amount of \$1,000 to the State of Montana pursuant to §§ 33-1-317, 33-1-1211, MCA.

### **STATEMENT OF RIGHTS**

Respondent is entitled to contest the Commissioner's proposed action by requesting an administrative hearing. To do so, **within 24 days of the date this Notice**, Respondent must submit a written hearing request to CSI at 840 Helena Avenue, Helena, MT 59601 or [CSILegalService@mt.gov](mailto:CSILegalService@mt.gov). A hearing request may, but does not have to, include a response to the allegations set forth above. If a hearing is requested, Respondent will be provided notice of the time, place, and nature of the hearing. Respondent will be entitled to attend this hearing and respond and present evidence and arguments on all issues involved in this action.

Respondent has the right to retain legal counsel to represent, accompany, and advise them at any and all stages of this proceeding or may also elect to represent themselves; however, a business entity may not appear on its own behalf or through an agent other than an attorney licensed to practice law. Admin. R. Mont. 1.3.231.

Administrative hearings are conducted by an impartial hearing examiner appointed by the Commissioner under the provisions of the Montana Administrative Procedures Act. Formal proceedings may be waived pursuant to § 2-4-603, MCA.

### **CONTACT WITH COMMISSIONER'S OFFICE**

If there are questions or concerns, please contact CSI at 406-444-2040 or [CSILegalService@mt.gov](mailto:CSILegalService@mt.gov). If represented by an attorney, please ensure this contact is made by the attorney.

### POSSIBILITY OF DEFAULT

Failure to timely provide a written hearing request shall result in the entry of a default order imposing the Commissioner's proposed action, without additional notice, pursuant to Admin. R. Mont. 1.3.214.

DATED this 21<sup>st</sup> day of June, 2022.

  
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MARK MATTIOLI  
*Counsel for Commissioner of Securities & Insurance*  
Authorized by the Commissioner under  
§ 33-1-304(1), MCA

### CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2022, I caused a copy of the foregoing *Notice of Proposed Agency Action and Opportunity For Hearing* to be served on the following persons by the following means:

Nathan Mahler  
14405 Marcure Lane  
Missoula, Montana 59808

☒ U.S. Mail  
☐ Facsimile  
☐ Express Mail  
☐ Hand Delivery  
☐ Email

DATED: 6/21/2022

  
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TIFFANY HOFFMAN, Paralegal